

MELLINGER KARTZMAN LLC

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Attorneys for Steven P. Kartzman, Chapter 7 Trustee



Order Filed on March 4, 2020
by Clerk
U.S. Bankruptcy Court
District of New Jersey

In re:

**MICHAEL KALFUS AND
ROBIN KALFUS,**

Debtor.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Case No. 18-13396 (VFP)

Chapter 7

Honorable Vincent F. Papalia

**INTERIM ORDER ON MOTION OF THE CHAPTER 7 TRUSTEE
FOR ENTRY OF AN ORDER DIRECTING TURNOVER OF PROPERTY
OF THE ESTATE TO THE TRUSTEE PURSUANT TO 11 U.S.C. § 542(a)**

The relief set forth on the following pages, numbered two (2) through four (4), is hereby
ORDERED.

DATED: March 4, 2020



Honorable Vincent F. Papalia
United States Bankruptcy Judge

Page 2 of 4

Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Scheduling Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

This matter having been brought before the Court by motion of Steven P. Kartzman, the court-appointed Chapter 7 Trustee (the “Trustee”), by and through counsel, Mellinger Kartzman LLC, for entry of an order directing turnover of property of the estate to the Trustee pursuant to 11 U.S.C. § 542(a) (the “Motion”); and Michael and Robin Kalfus (the “Debtors”) having filed opposition to the Motion (the “Opposition”) [Dkt. No. 160]; and the Trustee having filed a reply to the Debtors’ Opposition (the “Reply”) [Dkt. No. 170]; and a hearing having been conducted on the Motion on February 25, 2020; and the Court having made the following preliminary determinations:

a) The rents from the Property¹ during the period of August 1, 2018 to July 26, 2019 (the “Relevant Period”) constitute property of the estate pursuant to 11 U.S.C. § 541(a)(6)(b). The Trustee is entitled to recover the “net rents” during the Relevant Period. The “net rents” equal the excess of rents collected with respect to the Property during the Relevant Period over expenses paid by the Debtors with respect to the Property during the Relevant Period.

b) The Debtors have not disputed the amounts as set forth in the Motion as to the rents collected (\$87,291.49) and expenses paid by the Debtors (\$28,533.75) during the Relevant Period.

c) The Trustee was acting within the scope of his duties and exercised reasonable business judgment in investigating the possible sale of the Property prior to noticing an abandonment of the Property.

d) The Trustee did not abandon and reserved all his rights as to the estate’s interest in the rents from the Property during the Relevant Period.

¹ Capitalized terms, not otherwise defined herein, shall have the meaning ascribed to them in the Motion.

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Scheduling Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

e) Notice was not provided, but needs to be provided, to all parties that may have a secured interest (including an Assignment of Rents) in the post-petition rents from the Property for the Relevant Period, including, but not limited to: (i) Shellpoint Mortgage Servicing, and its mortgagee; (ii) Bayview Loan Servicing; and its mortgagee; and (iii) the Internal Revenue Service (collectively, the “Additional Notice Parties”), to afford the Additional Notice Parties an opportunity to respond to the Motion.

It is hereby

ORDERED AS FOLLOWS:

1. The hearing on the Motion shall be continued until March 31, 2020 at 10:00 a.m.
2. The Debtors shall have until March 20, 2020 to: (i) file with the Court and serve on the Trustee evidence of expenses paid during the Relevant Period that are not already included in the figure of \$28,533.75 in expenses paid by the Debtors during the Relevant Period (the “Additional Expenses”); and (ii) otherwise supplement their objection to the Motion.
3. The Trustee shall serve the Additional Notice Parties with a copy of this Order and the Motion within three (3) business days of its entry and promptly file proof of service of same.
4. All parties asserting a secured or other interest in the post-petition rents from the Property for the Relevant Period shall have until March 24, 2020 to file a response/opposition, if any, to the Motion.

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Debtor: Michael and Robin Kalfus

Case No.: 18-13396 (VFP)

Caption: Scheduling Order on Motion of the Chapter 7 Trustee for Entry of an Order Directing Turnover of
Property of the Estate to the Trustee Pursuant to 11 U.S.C. § 542(a)

5. The Trustee shall have until March 27, 2020 to file a reply/opposition to any amounts asserted by the Debtors as Additional Expenses paid during the Relevant Period or any other objection of the Debtors, as well as a reply to any response/opposition filed by a party asserting a secured or other interest in the rents.

In re:
Michael Kalfus
Robin Kalfus
Debtors

Case No. 18-13396-VFP
Chapter 7

CERTIFICATE OF NOTICE

District/off: 0312-2

User: admin
Form ID: pdf903

Page 1 of 2
Total Noticed: 1

Date Rcvd: Mar 04, 2020

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 06, 2020.
db/jdb +Michael Kalfus, Robin Kalfus, 7 Lakeview Terrace, Montville, NJ 07045-9158

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 06, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 4, 2020 at the address(es) listed below:

Anthony Sodono, III on behalf of Joint Debtor Robin Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Debtor Michael Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Defendant Michael Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Defendant Robin Kalfus asodono@msbnj.com
 Anthony Sodono, III on behalf of Defendant Michael and Robin Kalfus asodono@msbnj.com
 Caitlin Conklin on behalf of Creditor Lakeland Bank caitlin.conklin@klgates.com
 Charles G. Wohlrab on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE (CWALT 2005-J9) cwohlab@LOGS.com, njbankruptcynotifications@logs.com
 Charles Michael Rowan on behalf of Creditor Albert Kenney mrowan@saul.com
 Christian Del Toro on behalf of Creditor Haven Savings Bank cdeltoro@martonelaw.com, bky@martonelaw.com
 David Gerardi on behalf of U.S. Trustee U.S. Trustee david.gerardi@usdoj.gov
 Denise E. Carlon on behalf of Creditor VW Credit Leasing, Ltd dcarlon@kmlawgroup.com, bkgroup@kmlawgroup.com
 Forrest Scott Turkish on behalf of Attorney Forrest Turkish fsturkish@aol.com
 Frank J Martone on behalf of Creditor Haven Savings Bank bky@martonelaw.com
 Guillermo Gonzalez on behalf of Joint Debtor Robin Kalfus ggonzalez@scuramealey.com, ecfbkfilings@scuramealey.com; mmack@scura.com; lrichard@scura.com; martinezcr93878@notify.bestcase.com; agouveia@scura.com
 Guillermo Gonzalez on behalf of Debtor Michael Kalfus ggonzalez@scuramealey.com, ecfbkfilings@scuramealey.com; mmack@scura.com; lrichard@scura.com; martinezcr93878@notify.bestcase.com; agouveia@scura.com
 John O'Boyle on behalf of Plaintiff Osborn Financial Group, LLC joboyale@norgaardfirm.com, sferreira@norgaardfirm.com; l84grandno@gmail.com; kcimmimo@norgaardfirm.com
 John A. Fialcowitz on behalf of Plaintiff Fishman consulting group, llc john.fialcowitzlaw.com
 Joseph L. Schwartz on behalf of Interested Party The County of Morris, Morris County Sheriff's Office jschwartz@riker.com
 Joseph R Zapata, Jr. on behalf of Plaintiff Steven P. Kartzman jzapata@msklaw.net
 Joseph R Zapata, Jr. on behalf of Trustee Steven P. Kartzman jzapata@msklaw.net
 Judah B Loewenstein on behalf of Trustee Steven P. Kartzman jloewenstein@msklaw.net
 Mark E. Hall on behalf of Mediator Mark Hall mhall@foxrothschild.com, cbrown@foxrothschild.com
 Matteo Percontino on behalf of Creditor Lakeland Bank matt.percontino@cohnreznick.com, matteo.percontino@klgates.com
 Melissa S DiCerbo on behalf of Creditor THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE (CWALT 2005-J9) nj-ecfmail@mwclaw.com, nj-ecfmail@ecf.courtdrive.com
 Rebecca Ann Solarz on behalf of Creditor VW Credit Leasing, Ltd rsolarz@kmlawgroup.com
 Richard James Tracy, III on behalf of Creditor The Bank of New York Mellon, FKA The Bank of New York, as Trustee for the Certificateholders of Cwalt Alternative Loan Trust 2005-J9, Mortgage Pass-Through Certificates, Series 2005-J9 by its servicer rtracy@hillwallack.com, tshariff@schillerknapp.com; kcollins@schillerknapp.com; ahight@schillerknapp.com

District/off: 0312-2

User: admin
Form ID: pdf903

Page 2 of 2
Total Noticed: 1

Date Rcvd: Mar 04, 2020

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)
system (continued)

Steven P. Kartzman on behalf of Trustee Steven P. Kartzman kartztee@optonline.net,
jzapata@msklaw.net;njl6@ecfcbis.com;jloewenstein@msklaw.net
Steven P. Kartzman on behalf of Plaintiff Steven P. Kartzman kartztee@optonline.net,
jzapata@msklaw.net;njl6@ecfcbis.com;jloewenstein@msklaw.net
Steven P. Kartzman kartztee@optonline.net,
jzapata@msklaw.net;njl6@ecfcbis.com;jloewenstein@msklaw.net
U.S. Trustee USTPRegion03.NE.ECF@usdoj.gov
William L. Waldman on behalf of Creditor Lakeland Bank william.waldman@klgates.com,
waldmanw@aol.com

TOTAL: 31